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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,596	12/20/2005	Graham R. Purkins	58847US004	9799
32692	7590	06/09/2011		
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			EXAMINER LEE, EDMUND H	
			ART UNIT 1744	PAPER NUMBER
			NOTIFICATION DATE 06/09/2011	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com

Office Action Summary

Application No.

10/561,596

Applicant(s)

PURKINS ET AL

Examiner

EDMUND LEE

Art Unit

1744

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 20, 21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 20, 21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17,20,21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leys et al (US 2002/0036017) in view of McPeak et al (USPN 6880808) and Bryant et al (USPN 5772085).

The phrase "for a pressurized metered dose inhaler" found in the preamble has not been given patentable weight because it is not a manipulative feature of the claimed process. The recitation of an intended use does not amount to a claim limitation unless it results in a manipulative difference between the claimed process and the prior art. See MPEP 2111.02.

In regard to claim 17, Leys et al teach the claimed process (paragraphs 0025 and 0031; fig 3) except using one of the claimed materials for the stem; and using a second material comprising a thermosettable elastomer. In regard to using one of the claimed materials for the stem, McPeak et al teach a valve body and valve housing, wherein both body and housing are molding from PEEK or PAEK (patented claims 6 and 9 and 11). Since Leys et al and McPeak et al are analogous with respect to valves, it would have been obvious to one of ordinary skill in the art at the time the invention was made

to substitute PAEK for the PEEK of Leys et al since they are substitutable alternatives as taught by McPeak et al. In regard to using a second material comprising a thermosettable elastomer, Bryant et al teach a valve stem having valve seals 16, 18 comprised of any suitable resiliently deformable material including thermoset rubbers (col 7, lns 18-38; figs 2a-2i). Since Leys et al and Bryant et al are analogous with respect to valve stems having a sealing element, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the sealing elements of Leys et al (diaphragm 44 and fluid control 46) from thermoset rubbers as taught by Bryant et al in order to form resiliently deformable seals. In regard to claim 20, such is taught by the above combination of Leys et al and Bryant et al. In regard to 21, such is inherently taught by Leys et al (paragraphs 0025 and 0031; fig 3)--it should be noted that the valve stem has to be removed from the mold in order to be useable. In regard to claim 24, such is well-known in the molding art in order to reduce cycle time (i.e. freeing up the mold for subsequent molding cycles) or strengthening the molded article through annealing. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to subject the article of Leys et al to thermal treatment in order to reduce cycle time or strength the article. In regard to claim 25, such is well-known in the molding art as an efficient means for molding and overmolding. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to injection molding either the stem or seal of Leys et al in order to efficiently form the article of Leys et al.

3. Applicant's arguments with respect to claims 17,20-21, and 24-25 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following teach the state of the art: 5456830; 5772085; 2002/0190085.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571.272.1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1744

EHL
/EDMUND H. LEE/
Primary Examiner, Art Unit 1744